

**IN THE UNITED STATE DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOSHUA BOOZE,</b>	:	
<b>Plaintiff,</b>	:	<b>No. 1:12-cv-01307</b>
	:	
<b>v.</b>	:	<b>(Judge Kane)</b>
	:	
<b>JOHN WETZEL, et al.,</b>	:	<b>(Magistrate Judge Schwab)</b>
<b>Defendants.</b>	:	
	:	

**ORDER**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

Plaintiff Joshua Booze, presently incarcerated at State Correction Institution Forest, initiated this action on July 9, 2012, by filing a complaint against prison employees and officials. (Doc. No. 1.) Plaintiff alleges that Defendants violated his constitutional rights in connection with the loss or theft of Plaintiff's property, including legal papers necessary to his criminal appeal, and that 42 U.S.C. § 1983 provided legal recourse for this deprivation. (Doc. No. 1.) Following the dismissal of his original complaint, Plaintiff filed an amended complaint on June 19, 2014, seeking monetary and declarative relief against thirteen individuals, each an affiliate of the state prison system. (Doc. No. 76.) Defendants filed a motion to dismiss Plaintiff's amended complaint on August 20, 2014. (Doc. No. 65.) Magistrate Judge Schwab issued her Report and Recommendation on February 11, 2015, recommending that the Court grant in part and deny in part Defendants' motion to dismiss. (Doc. No. 76.) Plaintiff filed his "Objections to Report and Recommendation" on February 27, 2015. (Doc. No. 77.)

Plaintiff's filing, however, cannot fairly be characterized as objections to the Report and Recommendation, regardless of how he has titled it. Rather, Plaintiff asks the Court "to allow Plaintiff to supplement his amended complaint" to reflect the declaratory and monetary relief

that he seeks. (Doc. No. 77 at 1.) In addition, “Plaintiff asks the [C]ourt to allow him to supplement his amended complaint . . . [because] Plaintiff did not know that he had to argue issues as if he was arguing his habeas [petition.]” (Id. at 1-2.)

The Magistrate Act, 28 U.S.C. § 636, and Federal Rule of Civil Procedure 72(b), provide that any party may file written objections to a magistrate’s proposed findings and recommendations. Under the Magistrate Act, the Court will re-consider de novo those portions of the Report and Recommendation to which specific objection has been made. See 28 U.S.C. § 636(b)(1). But it necessarily follows that objections are not a vehicle for the introduction of facts, concepts, or requests that a magistrate judge could not have considered, because they were not before him or her. See id.; see also M.D. Pa. L.R. 72.3. In his most recent filing, Plaintiff does not object to the content of Magistrate Judge Schwab’s findings, but instead seeks to address those findings. (See Doc. No. 77 at 1-2.) Because Plaintiff has not filed true objections, and because the Court finds no legal error with Magistrate Judge Schwab’s recommendations, the Court will adopt Magistrate Judge Schwab’s Report and Recommendation in full.

**ACCORDINGLY**, on this 17th day of March 2015, **IT IS HEREBY ORDERED THAT** Magistrate Judge Schwab’s Report and Recommendation (Doc. No. 76) is **ADOPTED**.

**IT IS FURTHER ORDERED THAT** Defendants’ motion to dismiss Plaintiff’s complaint with prejudice (Doc. No. 65) is **GRANTED AND DENIED IN PART AS FOLLOWS**:

1. Defendants’ motion is **DENIED** with respect to Plaintiff’s retaliation and conspiracy claims against Defendants Fisher, Irvin, and Worker;
2. Defendants’ motion is **DENIED** with respect to Plaintiff’s state law claims;
3. In all other respects, Plaintiff’s complaint is **DISMISSED WITH PREJUDICE**; and,

4. The above-captioned action is **REFERRED BACK** to Magistrate Judge Schwab for pretrial management, including disposition of any new or pending motions.

S/ Yvette Kane  
Yvette Kane, District Judge  
United States District Court  
Middle District of Pennsylvania